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| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|--------------------|------------------------|-----------------------|------------------------|
| 10/780,650         | 02/19/2004             | Robert Bargatze       | 057309-5004-US02       |

009629  
MORGAN LEWIS & BOCKIUS LLP  
1111 PENNSYLVANIA AVENUE NW  
WASHINGTON, DC 20004



CONFIRMATION NO. 2153  
FORMALITIES LETTER



\*OC000000012873569\*

Date Mailed: 06/04/2004

**NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION**

08/05/2004 EAREGAY1 00000085 500310 10780650 FILED UNDER 37 CFR 1.53(b)

01 FC:2051 65.00 DA

*Filing Date Granted*

**Items Required To Avoid Abandonment:**

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The signature of the following inventor(s) is missing from the oath or declaration:  
*Barry Pyle*
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- An abstract of the technical disclosure not exceeding 150 words in length and commencing on a separate sheet in compliance with 37 CFR 1.72(b) is required. An abstract was not provided for this application.

**SUMMARY OF FEES DUE:**

Total additional fee(s) required for this application is **\$65** for a Small Entity

- **\$65** Late oath or declaration Surcharge.

Replies should be mailed to: Mail Stop Missing Parts

Commissioner for Patents

P.O. Box 1450

**RECEIVED**

JUN 07 2004

MORGAN, LEWIS & BOCKIUS LLP

Alexandria VA 22313-1450

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*A copy of this notice **MUST** be returned with the reply.*

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



PATENT  
ATTORNEY DOCKET NO.: 057309-5004-US02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
Robert BARGATZE, et al. )  
Application No.: 10/780,650 ) Group Art Unit: 1653  
Filed: February 19, 2004 ) Examiner: Unassigned  
For: **THERAPEUTIC AND DIAGNOSTIC AGENTS FOR THE TREATMENT  
OF MICROBIAL INFECTIONS**

Commissioner for Patents  
**BOX MISSING PARTS**  
Washington, D.C. 20231

**RESPONSE TO NOTICE TO FILE MISSING PARTS**

1. This replies to the Notice to File Missing Parts of Nonprovisional Application mailed June 4, 2004.  
A copy of the Notice To File Missing Parts Of Nonprovisional Application is enclosed. A copy of the Preliminary Amendment filed February 19, 2004, which includes an Abstract, is also enclosed.
2. Declaration Or Oath
  - No declaration or oath was filed. Enclosed is the original Combined Declaration and Power of Attorney
  - The specification attached to the declaration is a copy of the specification and any amendments thereto which were filed in the PTO to obtain the filing date.
  - The declaration or oath which was filed was determined to be defective. A new original Combined Declaration and Power of Attorney is attached executed by the remaining inventor.

PATENT  
ATTORNEY DOCKET NO.: 057309-5004-US02

3. English Translation of Non-English Language Papers

Submitted herewith is a verified English translation of the non-English language application papers as originally filed. It is requested that this translation be used as the copy for examination purposes in the PTO.

Also enclosed is the Verification of Translation Document

4. Small Entity Status

Small entity status under 37 C.F.R. § 1.27 is asserted for the present application.

5. Fee Calculation

| Basic Fee:  |              |              |  | PREVIOUSLY PAID |
|---|--------------|--------------|--|-----------------|
| Patent Application-\$770.00<br>Design Application-\$340.00                                    |              |              |  |                 |
|   | Number Filed | Number Extra | at a Rate of   |                 |
| Total Claims  | 26 - 20      | 6            | \$ 18.00 each=                                       | PREVIOUSLY PAID |
| Independent Claims  | 1 - 3        | 0            | \$ 86.00 each=                                       | \$0.00          |
| Multiple dependent claim(s), if any   |              |              | \$290.00   | \$0.00          |
| Missing Parts Surcharge Fee   |              |              | \$130.00   | \$130.00        |
|   |              |              | <b>SUB-TOTAL =</b>                                   | <b>\$130.00</b> |
|   |              |              | <b>Reduction by 1/2 for filing by a small entity</b> | <b>-\$65.00</b> |
|   |              |              | <b>SUB-TOTAL =</b>                                   | <b>\$65.00</b>  |
| Fee For Application Filed With A Non-English Specification (37 C.F.R. § 1.17(k) and § 1.52(d) |              |              | \$130.00   |                 |
| Fee For Processing and retention of application (37 C.F.R. § 1.21(l) and § 1.53(d)            |              |              | \$130.00   |                 |
|   |              |              | <b>TOTAL FILING FEE =</b>                            | <b>\$65.00</b>  |

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6. Extension of Time

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136(a) apply.

Applicant petitions for an extension of time, the fees for which are set out in 37 C.F.R. §§ 1.17(a)-(d), for the total number of months checked below:

| Total months requested                | Fee for extension | [fee for Small Entity] |
|---------------------------------------|-------------------|------------------------|
| <input type="checkbox"/> one month    | \$ 110.00         | \$ 55.00               |
| <input type="checkbox"/> two months   | \$ 420.00         | \$210.00               |
| <input type="checkbox"/> three months | \$ 950.00         | \$475.00               |
| <input type="checkbox"/> four months  | \$1,480.00        | \$740.00               |
| <input type="checkbox"/> five months  | \$2,010.00        | \$1,005.00             |

Extension of time fee due with this request: \$0.00

If an additional extension of time is required, please consider this a Petition therefor.

Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

7. Fee Payment

The total fee due is: Completion Fees \$65.00

Total Fee Due \$65.00

Please charge Deposit Account No. 50-0310 in the amount of \$65.00 representing the total fee due and the assignment recordation fee.

Except for issue fees payable under 37 C.F.R. §1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §1.16 and §1.17 which may be required, or credit any overpayment to Deposit Account No. 50-0310.

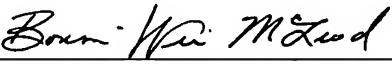
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8. Additional papers enclosed.

- Copy of Preliminary Amendment including Abstract (Filed February 19, 2004)
- Information Disclosure Statement
- Form PTO-1449
- Citations
- Declaration of Biological Deposit
- Submission of "Sequence Listing", computer readable copy and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence.

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**

  
\_\_\_\_\_  
Bonnie Weiss McLeod Reg. No. 43,255

Date: August 4, 2004

**CUSTOMER NO. 09629**  
MORGAN, LEWIS & BOCKIUS LLP  
1111 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
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Facsimile: (202) 739-3001



**COPY**

**PLEASE STAMP AND RETURN TO SHOW RECEIPT OF:**

New U.S. Patent Application of: BARGATZE ET AL

**Continuation of Serial No. 09/068,935**

For: THERAPEUTIC AND DIAGNOSTIC AGENTS FOR  
THE TREATMENT OF MICROBIAL INFECTIONS

**ATTENTION: MAIL STOP PATENT APPLICATION**

1. Deposit Account No. 50-0310 - \$439.00
2. Transmittal Letter
3. Specification of 92 pages, including 54 claims
4. 5 Sheets of Drawings
5. Preliminary Amendment
6. Copy of Assignment Recordation Documents
7. Information Disclosure Statement and Form PTO-1449 (2 pages)
8. Request to Transfer Sequence Listing

Dated: February 19, 2004

Attorney Docket No.: 057309-5004-US02  
(BWM\mah)



**DOCKETED**  
By BB Date 2/20/04